

The 21st June, 1985

No. 9/5/84-Lab/5160.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s. Khadi Ashram, G.T. Road, Panipat (Haryana).

IN THE COURT OF SHRI V. P. CHAUDHARY,  
PRESIDING OFFICER, LABOUR COURT,  
AMBALA (HARYANA)

Reference No. 262 of 1984

SHRI SATYA NARAIN, WORKMAN AND THE  
MANAGEMENT OF MESSRS KHADI ASHRAM,  
G.T. ROAD, PANIPAT (HARYANA).

Present:

Shri Raghoir Singh, for workman.  
Shri Surinder Kaushal, for respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (C) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Satya Narain workman and the management of Messrs Khadi Ashram, G. T. Road, Panipat to Labour Court, Rohtak. The terms of reference are as under:

"Whether the termination of services of Shri Satya Narain, workman was justified and in order? If not what relief is he entitled to?"

Shri Satya Narain, workman alleged that he was an employee of the respondent management and used to draw Rs. 285 P.M. Charge-sheet dated 4th June, 1977 was served him which he replied. Respondent management without conducting any enquiry in the matter terminated his services. He was not afforded any opportunity to defend himself. He has prayed for reinstatement with continuity of service and with full back wages. Respondent-management controverted allegations of the workman contending that allegations contained in charge-sheet were admitted by him. Recovery of the amount embezzled by the workman was ordered to be recovered in monthly instalment of Rs. 100 P.M. It was further contended that since the workman has already admitted the facts of the embezzlement. In these circumstances, no enquiry was required. It was also contended that 1974-75,

1975-76, 1976-77 during all these financial years when the accounts and stock of workman were checked. Shortage was detected and in the last certain stock of yarns wool was also detected which resulted in loss of confidence in the workman of respondent, so his services were terminated.

These allegations were refuted by workman asserting that he made good the shortages of management behaved with cruelty criminal case under section 408 IPC was got registered against him. He was convicted by the trial court but was acquitted by the first appellate court and his acquittal was upheld by the Hon'ble High Court.

On the pleadings of the parties the following issues were framed:

ISSUE NO. 1:

Whether the termination of services of Shri Satya Narain, workman was justified and in order? If not, to what relief is he entitled?

I have heard Shri Raghoir Singh for workman and Shri Surinder Kaushal for respondent management and have perused the oral and documentary evidence available on file. My finding on issue No. 1 is as under:—

ISSUE NO. 1:

Management to prove its case examined MW-1 Shri Hari Singh, Office Incharge who stated that he received complaint of misappropriation against the workman as Audit Report Exhibit M-4 amounting to Rs. 232.50. Charge-sheet Exhibit M-5 was served. Reply Exhibit M-6 was received. During the year 1975-76 workman again admitted certain shortages and discrepancies of shortage of cash amounting to Rs. 3,539.53 was found which was admitted by workman. Charge-sheet is Exhibit M-8. Workman admitted liability of Rs. 1,253 in cash.

Again shortage of woollen yarn of the value of Rs. 11,000 was detected. Show-Cause Notice Exhibit M-12 was issued. Shri Bhanwar Singh was appointed as Inquiry Officer. Workman admitted this shortages which is supported by Exhibit M-13. Ultimately some discrepancies were reported in the audit report of the year 1976-77 which resulted in the termination of services of workman. In cross-examination this witness stated that workman did not sign any confessional statement in his presence. Appointment order of Shri Bhanwar Singh as an Inquiry Officer is not traceable. He also admitted that

heard and defend himself. MW-2 Balbir Singh brought the judicial file and supported that an case F.I.R. No. 68 of 1978 U/S 408, 409 I.P.C. was pending against the workman.

Workman in support of his case examined WW-I Shri Karam Singh who deposed that certain shortages of wool yarn was detected against workman but the concession of 5 per cent (Katoti) and yarn wool wastes which the workman deposited with the Panipat office were not counted for. As soon as the Criminal cases were registered against the workman, whole of the records were sealed when Shri Sat Narain appeared in the witness box he stated that 650 kgs woollen yarn was not short. He accounted for the same. Only 66 kgs woollen yarn was not entered in the stock register. At the time of transfer he handed over that stock to his successor. He also stated that Shri Bhanwar Singh never called him. Never checked the stock at Gohana. No enquiry was conducted against him. Concocted evidence was lead against him in the court on account of the same he was convicted but later on he was acquitted by the first appellate court.

In view of above facts and evidence I am of the considered view that in the case in hand, no doubt in the year 1974-75, 1975-76 certain shortages in stock were observed by the Auditor against the workman, proper charge-sheet was served upon the workman. Later replied the same and made good of the losses. The last charge of 690 kgs shortage of woollen yarn as per statement of workman has been accepted by him, but his explanation was not appreciated. He was his explanation was not appreciated. He was made scape goat and also made victim of loss of confidence, inspite of the facts that there is no evidence on the file that Shri Bhanwar Singh was ever appointed as an Inquiry Officer. Shri Bhanwar Singh never visited Gohana Centre to check the actual physical stock. He never submitted any report. Shri Bhanwar Singh was not examined in this case, who could say that any confessional statement was made by workman to him which shows that the statement of workman on which management has placed reliance has got no value in the eyes of law. No list of witnesses was supplied to workman. Nor any enquiry was conducted. Workman was never afforded any opportunity to cross-examination the witnesses as well as to lead defence.

The sole evidence without accounting for the concession of Kho-Kho (woollen yarn

wastes) as well as 5 per cent rebate for the same nor the stock lying at Kahni centre at Gohana and stock despatched to Head office, Panipat. The workman was served with the most swarest punishment of termination.

The learned Additional District and Sessions Judge while setting aside the judgment of conviction passed by J.M.I.C., Gohana observed that as per statement of defence witnesses who were examined in the criminal case that when the wool was weaved the wool yarn turned into waste. The wool as well as waste wool yarns were despatched to Panipat Khadi Ashram as it is clear at page 97 of the stock register. As per page No. 105, 66 kgs, of wastes yarn known as Kho-kho was handed over to his successor on his transfer. 206 Kgs woollen yarn received unused at Gohana wool centre. Thus it clearly shows that the wool lying at Gohana wool centre, woollen yarn wastes (kho kho) and wool despatched to Panipat Head Office were not properly accounted for. Thus the management failed to prove the charge of shortages, mis-appropriation and embezzlement, thus the conviction was set aside and Sat Narain, workman was acquitted.

The sole arguments of Shri Surinder Kaushal authorised representative of the management that kho-kho concession had been afforded to the workman. He further contended that the workman has also confessed the shortages cannot be accepted because on oath of statement of workman refuted. Moreover on the file no copy of order was placed that Shri Bhanwar Singh was appointed as Inquiry Officer. There is nothing on the file which can show that Bhanwar Singh conducted an enquiry proceedings and workman, confessed his guilt. Non examination of Bhanwar Singh goes against the management because it was only Bhanwar Singh who could prove the confession statement of workman which has been relied and acted upon the management.

In view of my above discussions it has become evident that it is a case in which no enquiry was conducted. The order of termination was illegally passed which cannot stand in the eyes of law. Management got a case registered against the workman. He was ultimately acquitted. No blemish remarks against him. In those circumstances I hold the order of termination of services of the workman is illegal and unjustified and give him relief of reinstatement with continuity in service with full back wages. However with the observations that workman after resuming his duties first of all shall account for all the loss of alleged shortages and shall get the record completed.

I pass my award regarding the dispute in hand accordingly.

The 27th April, 1985.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Endorsement No. 1377, dated Ambala City, the 30th May, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

No. 9/5/84-Lab./5161.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of dispute between the workman and management of M/s. Cage Engineering Works, G. T. Road, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY,  
PRESIDING OFFICER, LABOUR COURT,  
AMBALA (HARYANA).

Reference No. 267 of 1984

(Old No. 68 of 1980)

SHRI HARNAM SINGH WORKMAN AND THE  
MANAGEMENT OF MESSRS CAGE ENGINEERING WORKS, G.T. ROAD, PANIPAT.

Present:

Shri Harish Baggi, for workman.

Shri Surinder Kaushal, for respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Harnam Singh workman and the management of M/s. Cage Engineering Works, G.T. Road, Panipat, to Labour Court, Faridabad. The terms of reference are as under:

"Whether the termination of services of Shri Harnam Singh workman was justified and in order? If not to what relief is he entitled to?"

On constitution of Labour Court at Ambala reference was received by transfer. Notices were issued to the parties. Parties were served and appeared.

Workman Harnam Singh alleged that he joined the services of the respondent management in the year 1977. On 3rd January, 1979. His services were terminated illegally and in an arbitrary manner in contravention of section 25(F) of the Industrial Disputes Act, 1947. He has prayed for re-instatement with continuity in service and with full back wages.

Respondent controverted the allegations of workman and contended that workman was in the service of respondent. On 3rd January, 1979, he was detected for having prepared patterns for out siders. At that time his explanation was called for. He indulged in mis-conduct, filthy languages and mis-behaviour with the Chief Engineer of respondent management who detected him. A charge-sheet was served upon to him which he never honoured. An Enquiry Officer was appointed who issued 3 notices to workman to join the inquiry proceedings but he refused. Thereafter he was served through publication (in Dainik Tribune) but in spite of, service he did not appear. Ex parte proceedings were taken up against him. The Inquiry Officer submitted ex party enquiry report against the workman holding him guilty of misconduct for having prepared patterns for out siders and for having supplied patterns of respondent-management to out siders in lieu of consideration. Thereafter, show cause notice was issued to him by the management with the Inquiry report which the workman refused to accept which resulted the termination of services of workman on 24th July, 1979.

On the pleadings of the parties the following issues were framed by my learned predecessor for the just decision of this case:

#### ISSUE NO. I:

Whether the workman had got any cause of action on 3rd January, 1979?

#### ISSUE NO II:

Whether the domestic enquiry held against the workman is fair and proper and in accordance with the principles of natural justice.

#### ISSUE NO. III:

Whether the termination of services of Shri Harnam Singh workman was justified and in order? if not to what relief is he entitled to?